
Section 22 Connecticut

Local River Protection Regulations In the Upper Thames River Basin

April 1986



**US Army Corps
of Engineers**
New England Division

LOCAL RIVER PROTECTION
REGULATIONS IN THE UPPER THAMES
RIVER BASIN OF CONNECTICUT

Prepared by:

Corps of Engineers
New England Division

April 1986

I. AUTHORITY

The authority for the preparation of this report is contained in Section 22 of the Water Resources Development Act (PL 93-251) of 1974. Section 22 reads in part as follows: "... The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State in the preparation of comprehensive plans for the development, utilization and conservation of the water and related resources ...

II. PURPOSE

The State of Connecticut, Department of Environmental Protection (DEP) desired land use mapping of the Upper Thames River Basin. This mapping was prepared by the Army Corps of Engineers' Construction Engineering Research Laboratory (CERL) using the Geographical Resources Analysis Support System. To supplement this land use mapping, the State desired information on local regulations implemented to protect wetland areas and the floodplain adjacent to rivers and streams. This study was initiated to determine the extent communities in the Upper Thames River Basin regulate land use in wetlands and floodplain areas.

III. SCOPE

The study concentrated on determining the current river and stream protection regulations enforced by communities in the upper portion of the Thames River Basin. An evaluation of the effectiveness and completeness of these regulations nor their enforcement record was not conducted. The main concern was only to inventory river and stream protection regulations, not evaluate their performance. An attempt was made to get the needed information from all the communities in the study area, either by mail or the telephone. Information received was then reviewed and compared to regulations in other communities. Tables were developed to summarize the regulations enforced in the Upper Thames River Basin.

The Upper Thames River Basin is located in eastern Connecticut and extends from the town of Bolton to the Rhode Island border. The general character of the basin is forested rural land. The rivers of the Upper Thames Basin include the Quinebaug, Moosup, Shetucket, Mount Hope, Willimantic, and numerous smaller tributaries. Of the thirty three towns included in the inventory, only Norwich actually borders on the Thames River. Figure 1 presents a map of the Thames River Basin.

IV. METHODS:

An attempt was made to contact each of the thirty three towns by phone or mail. On 9 August 1985, a request was sent to town officials, including selectmen, planning officials, and conservation commissions in each town for information describing river and wetland protection regulations. On 9 September 1985, an attempt to contact the towns which had not responded to the first request was conducted. Most of the towns

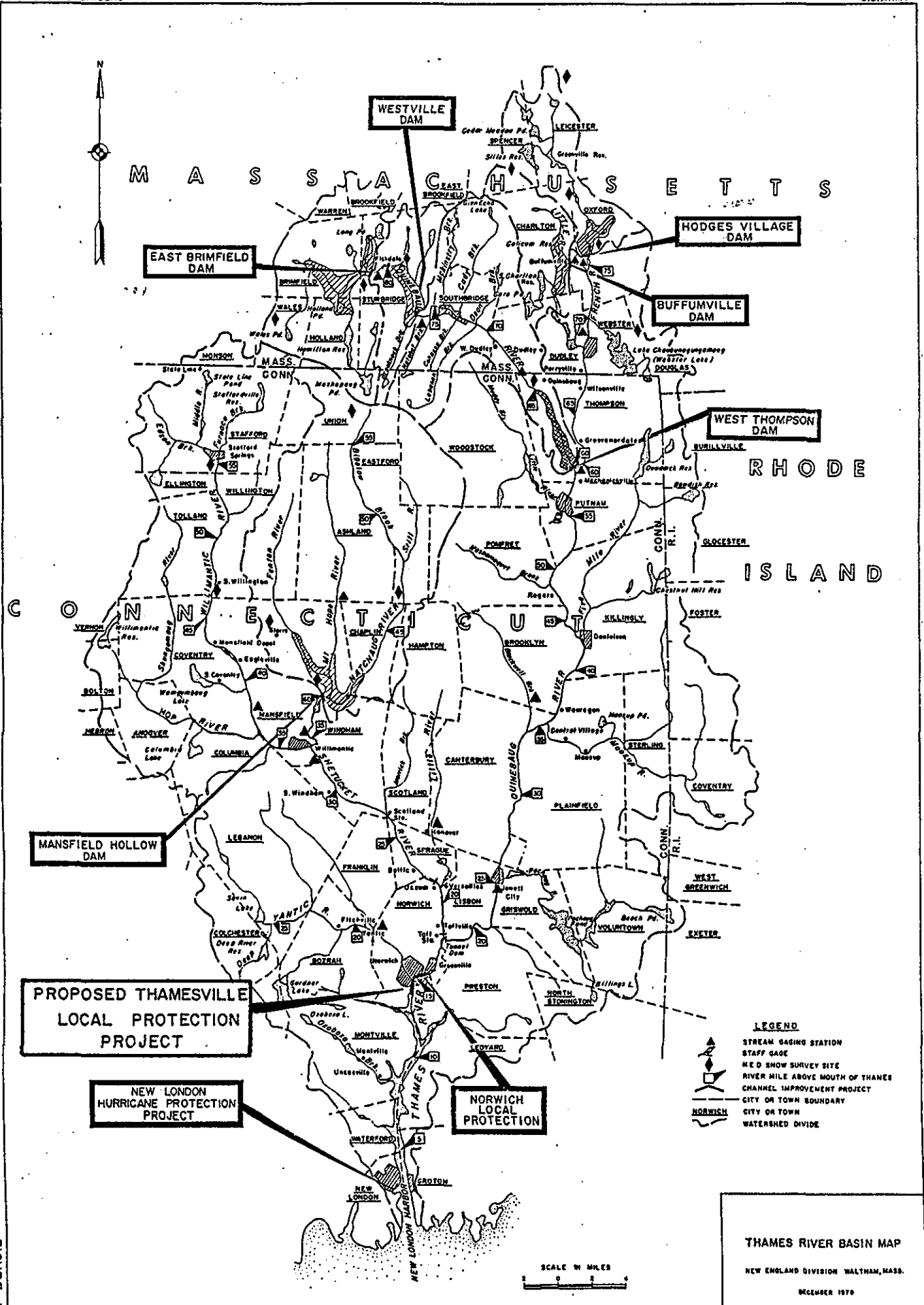


Figure 1

contacted either described their regulations over the phone or agreed to send copies of the appropriate regulations. Due to the fact that many of the staffs of the towns are part time or volunteer, it was not possible to contact some of the town officials. Therefore, a second mailing was sent to town officials who could not be contacted.

V. RESULTS:

Three towns did not respond to any part of the survey. Twelve towns did not supply information on flood zone or flood hazard area regulations. Information on Inland Wetlands and Watercourses Regulations was collected from each town either directly from the town or from Connecticut DEP, Inland Wetland Program.

Descriptions of the State Regulatory Programs are available in a pamphlet from the Department of Environmental Protection titled "Water Resources Unit Regulatory Programs Permit Index."

VI. DISCUSSION:

River protection regulations in Connecticut include programs developed by the Federal Government (Federal Emergency Management Agency) and the State (Department of Environmental Protection) as well as those developed by individual towns. The State regulations include: Inland Wetlands and Watercourses Regulations, Tidal Wetlands regulations, Structures and Dredging regulations, Diversion of Surface and Groundwaters regulations, Section 401 Water Quality Certification, Stream Channel Encroachment Lines, Dam Maintenance and Construction, and Minimum Stream Flow regulations. The State has also developed "Aquifer Protection Regulations" and "Erosion and Sediment Control Regulations" which are to be implemented by towns in a manner similar to the Inland Wetlands and Watercourses Regulations. Only Inland Wetlands and Watercourses Regulations and FEMA Regulations were included in this inventory since they can vary as amended by towns.

A. INLAND WETLANDS AND WATERCOURSES REGULATIONS

Rivers and streams in the Upper Thames River Basin are protected by the Inland Wetlands and Watercourses Regulations. These regulations were adopted by the State and in most cases are administered by the towns. Three towns in the basin (Preston, Sterling, and Voluntown) have not established municipal wetlands agencies so the State Department of Environmental Protection administers their wetlands programs. A copy of the State regulations is located in Appendix A. The regulations are basic guidelines and most towns have added details for clarification.

The State regulations control activities within wetlands and watercourses to the upland edge. Ten towns have adopted regulations in excess of the State regulations which include areas of jurisdiction to as great as 200' from the upland edge of the wetland or watercourse. Table 1

indicates the jurisdictional areas of the towns in the basin. Only two of the towns in the upper Thames River basin (Killingly and Thompson) have regulations which permit the town to require a buffer zone between any regulated activity and the wetland edge. Buffer zones cannot be required if provisions for buffer zones are not present in the regulations.

TABLE 1
INLAND WETLANDS AND WATERCOURSES REGULATIONS
JURISDICTION OF TOWNS IN THE UPPER THAMES RIVER DRAINAGE BASIN

	Administered By	Distance Inland of Upland Edge Regulated
Andover	Town	* 100'
Ashford	Town	Basic
Bolton	Town	Basic
Bozrah	Town	(1)
Brooklyn	Town	Basic
Canterbury	Town	Basic
Chaplin	Town	Basic
Colchester	Town	(2)
Coventry	Town	(3)
Eastford	Town	Basic
Franklin	Town	Basic
Griswold	Town	Basic
Hampton	Town	Basic
Killingly	Town	200'
Lebanon	Town	Basic
Lisbon	Town	Basic
Mansfield	Town	150'
Norwich	Town	100'
Plainfield	Town	Basic
Pomfret	Town	75'
Preston	State	Basic
Putnam	Town	Basic
Scotland	Town	Basic
Sprauge	Town	Basic
Sterling	State	Basic
Stafford Springs	Town	Basic
Thompson	Town	Basic
Tolland	Town	Basic
Union	Town	Basic
Voluntown	State	Basic **
Willington	State	Basic
Windham	Town	Basic
Woodstock	Town	Basic

Basic - Regulated Area - means any wetland or watercourse as defined in the State regulations.

Regulated Activity means any operation within or use of a wetland or watercourse as listed in Section 4.2 of the regulations.

* - Currently rewriting regulations to include areas to 100' from the wetland/upland edge.

** - Subdivision regulations require that applicants file an application with the DEP, Inland Wetlands Section within ten days of filing with the Planning and Zoning Commission. The Commission gives due consideration to any report filed with it by the DEP prior to rendering a decision on a subdivision application.

(1) Bozrah - Additional Regulated Activity - The location of any portion of any subsurface waste disposal system within 100' of the mean water line of all water courses; 50' of all wetlands and 100' of ledge escarpments adjacent to all wetlands and water courses is deemed a regulated activity.

(2) Colchester - Regulated Activity - Any operation use or activity within 100' of the mean water line of any watercourse or within 75' of any wetland. The location of any portion of any subsurface waste disposal system within 100' of a mean water line of all watercourses, or within 75' of any wetland is also deemed a regulated activity.

(3) Coventry - Additional Regulated Activity - The location of any waste disposal system within 150' of the edge of any watercourse or of the high water line of all open bodies of water, and 50' of all wetlands is deemed a regulated activity, but shall not include the permitted activities.

B. FLOOD ZONE REGULATIONS

Federal flood zone regulations were designed to limit damage from flooding in flood prone areas. By limiting development in the flood plain adjacent to a river, flood zone regulations can, as an aside, protect the natural amenities of a river. At best, by limiting all development in the flood zone, riparian habitat can be protected, aesthetic values can be preserved, and pollution and sedimentation from runoff can be controlled. At the very least, flood zone regulations limit impacts to downstream ecology by maintaining "normal" flood flows.

The Federal Emergency Management Agency (FEMA) requires that local regulations meet certain minimum criteria (Appendix B) to be eligible for Federally subsidized flood insurance. Regulations which are more restrictive than the Federal criteria are encouraged by FEMA. Communities may incorporate flood plain management regulations into their zoning, subdivision, and/or building codes, or may enact special purpose floodplain ordinances.

The town of Mansfield, for instance, has enacted regulations which prohibit new residential, commercial, or industrial land uses in Flood Hazard Zones with the exception of the following land uses = (1) agriculture; (2) open space/recreation; (3) parking; (4) accessory buildings; (5) sand and gravel removal or fill operations; and (6) hydroelectric facilities.

Flood zone regulations in some towns (for instance Lisbon) require that onsite sewage disposal systems be designed or located so as to minimize or eliminate infiltration of flood waters into the system and impairment of the system during flooding. This type of regulation will protect riverine water quality.

TABLE 2
FLOODPLAIN ZONING REGULATIONS

TOWN	BASIC FEMA REGS FLOOR LEVEL LIMIT FILLING/	PROHIBIT NEW BUILDING W/ EXCEPTIONS
Andover	X	
Ashford		X
Bolton	NR	
Bozrah	NR	
Brooklyn	X	
Canterbury	NONE	
Chaplin	NR	
Colchester	NR	
Coventry	NR	
Eastford	NR	
Franklin	X	
Griswold	NR	
Hampton	NR	
Killingly	X	
Lebanon	X	
Lisbon	X	
Mansfield		X
Norwich	X	
Plainfield	X	
Pomfret		X
Preston	X	
Putnam	X	
Scotland	NR	
Sprague	NR	
Sterling	X	
Stafford Springs	NONE	
Thompson	NR	
Tolland	X	
Union	NR	
Voluntown	X	

Willington	X	
Windham		X
Woodstock	X	

NR = No Response

NONE = No Flood Zone Regulations

C. ZONING AND SUBDIVISION REGULATIONS

Six towns have regulations within their zoning or subdivision regulations for the specific purpose of protecting rivers and streams. These include regulations to limit the distance of individual sewage disposal systems to the edge of a river or stream (Ashford, Voluntown), limiting certain alterations within a specific distance of a river or stream (Voluntown, Brooklyn), and Buffer Zones of a pre-prescribed width between a river or stream and an alteration (Mansfield, Tolland). The town of Coventry Zoning Regulations (Section 3.5) contain fairly comprehensive regulations on land use in River/Aquifer Zones (Appendix C). Descriptions of the various community regulations are present in the following paragraphs.

Ashford - Zoning Regulations 4.4.4 Watercourse - No septic system, drainage field and/or sanitary disposal system shall be built within 100 feet of a watercourse. No watercourse can be placed within 100 feet of a septic system, drainage field and/or sanitary disposal system.

Tolland - Zoning Regulations, Flood Plain/Stream Belt Zone (FPSB) - All rivers, streams, brooks, or marshes and water bodies (other than the Willimantic River which is protected by Stream Channel Encroachment Lines) designated on the Inland-Wetland Maps will be protected by a fifty (50) foot band surrounding the marshes and on both sides of the rivers, streams, and brooks. Within these restricted bands no building or structure shall be built and no land shall be used, excavated, or filled except in conformance with these regulations.

Mansfield - Zoning Regulations, Article VI, Section B.4re, Site Development Principles - Wherever feasible, buffers of undisturbed natural vegetation of 50' or more shall be retained along all watercourses and wetlands.

Voluntown - Zoning Regulations, Section 8.4 - Uses Near Water - No building, except a boat house and/or individual family sauna, shall be located within 25 feet of any waterbody, watercourse or wetland, or, if subject to flooding, within 25 feet of its highest flood line.

8.4.1 No part of any subsurface sewage disposal system shall be located within 75 feet of any moving watercourse, such as a river, stream or brook, nor within 100 feet of the high water mark of a standing or impounded waterbody, such as a lake, wetland or pond.

Brooklyn - Planning and Zoning Regulations, Article III, Section 5. Any building, excavation, installation of a septic system, the depositing of any material, or any activity which causes the alteration of the natural terrain within 150 feet of a permanent stream or its accompanying wetlands - Natural Soil groups A-3, B-3, C-3, E-1, E-2, F-1, G-3 - as delineated on Brooklyn Soil Survey maps on file at the Town Clerk's office, and by observation of the site, is permitted only as a Special Exception of the Zoning Board of Appeals. It shall be proven by the developer that the building or construction or other activity within the streambelt will not cause pollution or impair the health or safety of any residents or the ecological balance of the area.

The towns of Bozrah, Chaplin, Hampton, Bolton, Griswold, and Union did not provide an adequate response to determine if they had river and stream protection regulations within their zoning and subdivision ordinances.

APPENDIX A

**Connecticut Inland Wetland and
Watercourses Administrative Regulations
Sections 22a-39-1 - 22a-39-13.2**

ADMINISTRATIVE REGULATIONS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Inland Wetlands and Water Courses Regulations of the Connecticut Department of Environmental Protection

Sec. 22a-39-1. Title and authority

These regulations shall be known as the "Inland Wetlands and Water Courses Regulations of the Connecticut Department of Environmental Protection."

Sec. 22a-39-2. Definitions

Definitions, as used in these regulations:

1. "The Act" means Sections 22a-36 to 45 inclusive of the General Statutes, as amended;

2. "Commissioner" means the Commissioner of the Department of Environmental Protection;

3. "Department" means the Department of Environmental Protection;

4. "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit;

5. "Discharge" means the emission of any water, substance or material into waters of the State of Connecticut whether or not such substance causes pollution;

6. "License" means the whole or any part of a permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations or the Act;

7. "Local Inland Wetlands Agency" means the agency empowered by municipal ordinance to implement and administer the Act and having jurisdiction over the inland wetlands and water courses of such municipality;

8. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse, or waste;

9. "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, government agencies or subdivisions thereof;

10. "Pollution" means any harmful thermal effect or the contamination or rendering unclean or impure of any wetlands or water courses of the State of Connecticut by reason of any waste or other materials discharged or deposited therein by any public or private sewer, or otherwise, so as directly or indirectly to come in contact with any wetlands or water courses;

11. "Regulated activity" means any operation within or use of a wetland or water course as listed in Section 4.2 of these regulations;

12. "Regulated Area" means any wetland or water course as defined in these regulations;

13. "Remove" includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, bulldoze, dragline, or blast;

14. "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any wetlands or water courses of the State of Connecticut, including but not limited to change in color, odor, turbidity or taste;

15. "Significant impact or major effect" means:

a. Any activity involving a deposition of material which will or may have a substantial adverse effect on the regulated area or on another part of the inland wetland or water course system or

b. Any activity involving a removal of material which will or may have a substantial adverse effect on the regulated area or on another part of the inland wetland or water course system or

c. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a water course system or

d. Any activity which substantially diminishes the natural capacity of an inland wetland or water course to support desirable biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, and/or provide recreation and open space;

16. "Soil Scientist" means an individual duly qualified in accordance with standards set by the United States Civil Service Commission;

17. "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any wetlands or water courses of the State of Connecticut;

18. "Water Courses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, public or private, which are contained within, flow through or border upon the State of Connecticut or any portion thereof, not regulated pursuant to Sections 22-7h to 22-7o inclusive of the General Statutes, as amended;

19. "Wetlands" means land, including submerged land, not regulated pursuant to Sections 22-7h to 22-7o inclusive of the General Statutes, as amended, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and flood plain by the National Cooperative Soil Survey (as may be amended from time to time) of the U.S. Soil Conservation Service.

Sec. 22a-39-3. Permitted operations and uses

Sec. 22a-39-3.1. Uses permitted as of right

The following operations and uses shall be permitted in inland wetlands and water courses, as of right:

a. Grazing, farming, nurseries, gardening, and harvesting of crops and farm ponds of three acres or less;

b. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, providing the permit has been issued or the subdivision has been approved as of the effective date of promulgation of municipal regulations pursuant to the Act or in the absence thereof, as of the effective date of these regulations, whichever occurs first;

c. Boat anchorage or mooring;

d. Uses incidental for the enjoyment and maintenance of a residential property, such property defined as the largest minimum residential lot site permitted anywhere in the municipality, provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of substantial amounts of material from or into a wetland or water course, or diversion or alteration of a water course;

e. Construction and operation, by water companies as defined in Section 16-1 of the General Statutes, or by municipal water supply systems as provided for in Chap-

ter 102 of the General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies, except as provided in Sections 25-110 and 25-112 of the General Statutes, as amended.

Sec. 22a-39-3.2. Uses permitted where indigenous character of land is not disturbed

The following operations and uses shall be permitted, as nonregulated uses in wetlands and water courses provided they do not disturb the natural and indigenous character of the land. "Disturbing the natural and indigenous character of the land" means that the activity will significantly disturb the inland wetland or water course by reason of removal or deposition of material, will cause the alteration or obstruction of water flow, or will result in the pollution of the wetland or water course.

- a. Conservation of soil, vegetation, water, fish, shellfish and wildlife;
- b. Outdoor recreation including play and sporting areas, golf courses, field trails, nature study, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.

Sec. 22a-39-4. Licensing of regulated activities within regulated areas

Sec. 22a-39-4.1. Regulated activities to be licensed

Subject to the provisions of Sections 3, 4.3 and 4.4 hereof, regulated activities affecting wetlands and water courses within the State of Connecticut are prohibited except as they may be licensed 1) by the local inland wetlands agency, or 2) after June 30, 1974 by the Commissioner in the event that no local inland wetlands agency of competent jurisdiction is in operation.

Sec. 22a-39-4.2. Regulated activities

The local inland wetlands agency or the Commissioner shall regulate only those activities which:

- a. remove material from,
 - b. deposit material in,
 - c. obstruct,
 - d. construct,
 - e. alter, or
 - f. pollute
- inland wetlands and water courses.

Sec. 22a-39-4.3.a. Activities to be regulated solely by the commissioner

The Commissioner shall regulate the following activities to the exclusion of the local inland wetlands agencies:

- (1) Construction or modification of any dam, pursuant to Sections 25-110 and 25-112 of the General Statutes, as amended;
- (2) Construction or placement of any obstruction within channel encroachment lines, pursuant to Sections 25-4a to g of the General Statutes, as amended;
- (3) Construction or placement of any structure or obstruction within tidal, coastal and navigable waters, pursuant to Sections 25-7b to e of the General Statutes, as amended;
- (4) Diversion of water for public and domestic use, pursuant to Sections 25-8a to e of the General Statutes, as amended;
- (5) Discharges into waters of the state, pursuant to Section 25-54i of the General Statutes, as amended.

Sec. 22a-39-4.3.b. Submission and processing of applications

Each application to undertake an activity specified in Section 4.3.a of these regulations shall be submitted to

the Commissioner and processed in accordance with the statutes, regulations and procedures which are applicable to the proposed activity.

Sec. 22a-39-4.3.c. Submission of application to local wetlands agency

Except as provided in Section 4.4 of these regulations, if any application submitted pursuant to Section 4.3.b of these regulations includes a regulated activity as defined by Section 4.2 of these regulations, the Commissioner shall direct the applicant to submit such portion of the application to the appropriate local inland wetlands agency.

Sec. 22a-39-4.3.d. Local agency to direct certain applicants to commissioner

If a local inland wetlands agency receives an application to undertake an activity specified in Section 4.3.a of these regulations, the local inland wetlands agency shall in writing direct the applicant to apply to the Commissioner for the required license. The local wetlands agency may, in its discretion, review the remaining portions of the application, or may deem such application incomplete until the Commissioner issues a final decision concerning any related application subject to his jurisdiction.

Sec. 22a-39-4.3.e. Permits granted by commissioner to be binding on local agency

Any permit granted or denied by the Commissioner shall be binding upon the local inland wetlands agencies as to matters within the Commissioner's jurisdiction.

Sec. 22a-39-4.3.f. Commissioner may consult local agency

Upon receipt of any application to conduct an activity which will affect a wetland or water course, the Commissioner may submit a copy of the application to the local inland wetlands agency in any affected municipality for review and comment. The failure to receive a written reply shall not delay a public hearing or prejudice the final decision.

Sec. 22a-39-4.4. Exclusive jurisdiction of commissioner

The Commissioner shall license and maintain exclusive jurisdiction over regulated activities as defined in Section 4.2 of these regulations to be undertaken by any department, agency or instrumentality of the State of Connecticut.

Sec. 22a-39-4.5. Issuance of permits by commissioner before July 1, 1974

After the effective date of these Regulations, but before July 1, 1974, the Commissioner may issue such permits as he deems necessary to implement the purposes of the Act and of these Regulations.

Sec. 22a-39-4.6. Boundary maps to be established

The local inland wetlands agency or the Commissioner shall establish or amend area boundary maps in accordance with the procedures of subsections f and g of Section 22a-39 of the General Statutes. Such maps shall be on file in the offices of the municipal clerks and at the Department, and titled "Designated Inland Wetlands and Water Courses of the (City or town) of (Name of Municipality)."

Sec. 22a-39-4.7. Disputation of designations

Wetlands and Watercourses — Inland wetlands and water courses are defined in Sections 2 (18) and 2 (19) of these regulations.

- a. If any person disputes the designation or the failure to designate any wetland or water course as a regulated area, such person may be required to produce such

information as the local inland wetlands agency or the Commissioner deems necessary to permit an informed decision.

b. To meet the burden of proof for wetlands exemption under subsection (a), the petitioner may be directed to present documentation by a soil scientist that the wetland in question, or a portion of it, does not have a soil type classified by the National Cooperative Soils Survey as poorly drained, very poorly drained, alluvial, or flood plain.

Sec. 22a-39-5. Application procedure

Sec. 22a-39-5.1.a. Where applications to be submitted

Any person wishing to carry out a regulated activity shall submit an application to the local inland wetlands agency. After June 30, 1974, if there is no such operating wetlands agency within the municipality, such person shall apply to the Commissioner.

Sec. 22a-39-5.1.b. Complete application

No application submitted to the Commissioner shall be deemed complete unless it shall be in such form and contain such information as the Commissioner deems necessary for a fair determination of the issues. The Commissioner shall inform all applicants of such necessary information.

Sec. 22a-39-5.1.c. Five copies of information required

Written information and maps required by the Commissioner shall be furnished in no fewer than five (5) copies.

Sec. 22a-39-5.2. Information required on applications

All applications to the Commissioner shall include the following information in writing on a form provided by him.

a. The applicant's name, home and business addresses, and telephone numbers;

b. The owner's name (if applicant is not the owner of the property), home and business addresses, telephone numbers, and written consent to the proposed activity set forth in the application;

c. Applicant's interest in the land;

d. The geographical location of the property which is to be affected by the proposed activity, including a description of the land in sufficient detail to allow identification of the properties on the Inland Wetlands and Water Courses Map;

e. Purpose and description of the proposed activity;

f. A site plan;

g. Names of adjacent property owners;

h. Required additional information.

Sec. 22a-39-5.3. Summary ruling

If the Commissioner finds that a proposed activity is a regulated activity not involving significant impact or major effect on the inland wetland or water course as defined in Section 2 of these regulations, he may allow the activity with or without conditions or limitations. The Commissioner, after full review of the considerations set forth in Sections 6.1.d through 6.1.h and other pertinent factors, shall issue a permit with or without conditions or limitations.

Sec. 22a-39-5.4. Plenary rulings

If the Commissioner finds that the activity applied for does or may involve a significant impact or major effect on a wetland or water course, he may request additional information which may include but is not limited to:

a. **Site plan** — a map of the proposed use and the property which will be affected, drawn by a licensed surveyor, professional engineer, or professional architect, registered in the State of Connecticut or in an adjoining

state, or by such other person acceptable to the Commissioner. The map shall be at a scale to be determined by the Commissioner. Detailed information to be included on this site plan shall be requested by the Commissioner according to his evaluation requirements.

b. **Soil sample data** — if the parcel lies within or partly within an area containing poorly drained, very poorly drained, alluvial, and/or flood plain soils, the data shall show precisely where each specific soil type is found. Soil types identified must be consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service.

c. **Biological information** — The applicant may be required to submit 1) an evaluation of the extent of the presence of plant species commonly associated with water courses, and 2) an analysis of the probable effect of his proposed activity upon the plant and animal ecosystem.

d. **Water course characteristics** — if the proposed activity may affect a water course lying within, partly within, or flowing through or adjacent to the affected property, the applicant may be required to submit information relative to the present character and the projected impact of the proposed activity upon the water course.

e. **Analysis of material to be deposited** — the applicant may be required to describe any materials to be deposited on the affected property in terms of volume, composition, and the possibility of erosion or leaching from deposited materials. The applicant may also be required to estimate the probable environmental impact of the deposition of materials on the affected wetlands or water courses.

f. A description of the proposed construction or the erection of structures on the affected property, including blueprints, engineering and architectural plans or designs. Such description should include the purposes of such construction or activity.

g. A list of other property owners whose rights or interests may be affected by the proposed activity.

Sec. 22a-39-5.5. Public hearing may be held

If the Commissioner finds, on the basis of the evidence before him, that a regulated activity is involved which may have significant impact or major effect on a wetland or water course, he may docket such proposal for public hearing.

Sec. 22a-39-5.6.e. Public hearings

All public hearings shall commence not sooner than thirty (30) days nor later than sixty (60) days after the receipt of a complete application. Notice of the hearing shall be published at least once not more than thirty (30) days and not fewer than ten (10) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetlands or water courses are located. All applications, maps, and documents relating to this hearing shall be open for public inspection at the Office of the Clerk of the municipality wherein the affected inland wetland or water course is located, or at the Department. Notices of hearings shall be sent to the applicant, adjacent property owners, all known interested parties and groups, and to chief executive officers of the town wherein the wetland or water course lies.

Sec. 22a-39-5.7.a. Review by county soil and water conservation district

The Commissioner may submit one copy of the application to the County Soil and Water Conservation District for review. Such submission shall be made upon the receipt of a complete application, but failure to receive a written review from the Soil and Water Conservation District shall not delay a public hearing or prejudice the final decision.

Sec. 22a-39-5.7.b. Review by conservation commission

The Commissioner may submit one copy of the application to the Conservation Commission of the municipality wherein the wetland is located for review. Such submission shall be made upon receipt of a complete application, but failure to receive a written reply from the Conservation Commission shall not delay a public hearing or prejudice the final decision.

Sec. 22a-39-5.7.c. Review by conservation or planning commissions of adjoining municipality

The Commissioner may submit one copy of the application to the Conservation Commission or Planning Commission in any municipality whose border lies within five hundred (500) feet of any wetland or water course that may be affected by the proposed activity. Such submission shall be made upon receipt of a complete application, but failure to receive a written reply shall not delay a public hearing or prejudice the final decision.

Sec. 22a-39-6. Rendering a decision

Sec. 22a-39-6.1. Considerations for decision

The Commissioner shall, consistent with applicable requirements of Sections 4-166 to 185 of the General Statutes, as amended, consider the following in making his final decision on a permit application:

- a. All evidence offered at any public hearing;
- b. Any reports from other commissions and/or federal or state agencies, including the Soil and Water Conservation District and the Connecticut Department of Environmental Protection;
- c. Additional requested information;
- d. All relevant facts and circumstances, including but not limited to the following:
 - (i) The environmental impact of the proposed action, including the effects of the inland wetland's and water course's natural capacity to support desirable biological life, to prevent flooding, to supply water, to control sediment, to facilitate drainage, and to promote public health and safety.

- (ii) The alternatives to the proposed action including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity. This should include but is not limited to the alternative of taking no action, or postponing action pending further study; the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.

- (iii) The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses future options.

- (iv) Irreversible and irretrievable commitments of resources which would be involved in the proposed activity. This requires recognition that the inland wetlands and water courses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion or obstruction of waterflow, and by the erection of structures and other uses.

- (v) The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which would be caused or threatened. This

includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and other beneficial aquatic organisms, wildlife and vegetation; the dangers of flooding and pollution; and destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and water courses.

(vi) The suitability of such action to the area for which it is proposed. This requires the agency to balance the need for the economic growth of the state and the use of its land, with the need to protect its environment and ecology for the people of the state and the benefit of generations yet unborn.

e. Measures which would mitigate the impact of the proposed activity and may be imposed as conditions of the permit. Such measures include the availability of further technical improvements or safeguards which could feasibly be added to the plan or action to avoid the reduction of the wetland's or water course's natural capacity to support desirable biological life, prevent flooding, supply water, control sedimentation and/or prevent erosion, assimilate wastes, facilitate drainage, and provide recreation and open space.

Sec. 22a-39-6.2.a. When commissioner must render decision

In the absence of a public hearing, the Commissioner shall render a final decision within ninety (90) days from the receipt of a complete application. The Commissioner shall notify the applicant by certified mail of his decision within ten (10) days of the date of the decision and the Commissioner shall cause notice of his decision to be published in a newspaper having a general circulation in the municipality wherein the regulated area lies.

Sec. 22a-39-6.2.b. When commissioner must render decision after public hearing

Action shall be taken on applications within forty-five (45) days after certification of a transcript of the public hearing. The Commissioner shall inform the applicant and any other parties of his decision in granting a permit with or without conditions, or in denying a permit, by certified mail within ten (10) days of the date of such decision.

Sec. 22a-39-7. The permit

Sec. 22a-39-7.1. Written opinion required

At the time of granting a permit, granting a permit with conditions or limitations, or denying a permit following a public hearing, the Commissioner shall issue a written opinion presenting his reasons.

Sec. 22a-39-7.2. Modification and resubmission of denied application

The Commissioner may deny a permit with or without prejudice. If a permit is denied with prejudice, the application shall not be resubmitted for one year following the date of such denial. If a permit is denied without prejudice, the applicant may modify, amend or correct his proposal. The rejection of a modified proposal shall be equivalent to the denial of an application for the purposes of Section 10 of these regulations.

Sec. 22a-39-7.3. Modification of application granted with conditions

If a permit is granted with conditions or limitations, and the applicant disputes such conditions or limitations, he may modify, amend or correct his proposal. Rejection of a modified, amended or corrected proposal shall be equivalent to the denial of an application for the purposes of Section 10 of these regulations.

Sec. 22a-39-7.4. Initiation of activity to be within one year

Initiation of activity under a permit shall be within one year of the granting of the permit, unless the time period is extended by the Commissioner.

Sec. 22a-39-7.5. Assignment of permits

No permit may be assigned or transferred without the written consent of the Commissioner.

Sec. 22a-39-8. Other permits and licenses

Sec. 22a-39-8. Other permits and licenses

Nothing in these regulations shall obviate any requirement for the applicant to obtain any other permit or license required by law or regulation of the Government of the United States or of the State of Connecticut or any political subdivision is solely the responsibility of the applicant.

Sec. 22a-39-9. Enforcement

Sec. 22a-39-9.1. Entrance onto private property

In the performance of his duties under the Act, and under Section 22a-5 (d) of the General Statutes, the Commissioner or his designated agent pursuant to Section 22a-6 (d), may enter at all reasonable times upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of these regulations.

Sec. 22a-39-9.2. Issuance of orders

If the Commissioner finds that any person is maintaining any facility or condition which reasonably can be expected to impair, alter or destroy the wetlands and water courses of the State or which is creating or reasonably can be expected to create a source of pollution to the wetlands and water courses of the State, he may issue an order to such person maintaining such facility or condition to take the necessary steps to correct such facility or condition.

Sec. 22a-39-9.3. Appeal of order

Each order issued pursuant to Section 9.2 shall be sent by certified mail, return receipt requested, to the subject of such order and shall be deemed issued upon deposit in the mail. Any person aggrieved by any such order may, within thirty (30) days from the date such order is sent, request a hearing before the Commissioner. After such hearing the Commissioner shall consider the facts presented to him and shall revise and resubmit the order to the person or inform the person that the previous order has been affirmed. All such orders and hearings shall be issued and held in conformance with Sections 4-166 to 185 of the General Statutes, as amended, and with The Rules of Practice of the Dept. of Environmental Protection adopted pursuant to § 2 (a) of the P.A. 854 of 1971, as amended. The request for a hearing as provided for in this section shall be a condition precedent to the taking of an appeal under the provisions of Section 10 of these regulations. The Commissioner may, after the hearing provided for in this section, or at any time after the issuance of his order, modify such order by agreement or extend the time schedule therefor if he deems such modification or extension to be advisable or necessary. Any modification or extension shall be deemed to be a revision of an existing order and shall not constitute a new order.

Sec. 22a-39-9.4. Penalties for violation of regulations

Any person who commits, takes part in, or assists in any violation of any provision of these regulations shall be subject to the penalties provided in Section 22a-44 of the General Statutes, and to such other penalties as the

law may provide. If the Commissioner determines that any person is engaging in any regulated activity without a proper permit, or is exceeding the conditions or limitations placed on his permit or the scope of work as set forth in the application, or has obtained a permit through deception or through inaccurate information as to either the activity or its environmental impact, or has engaged or is engaging in any other violation of these regulations or the Act, the Commissioner may:

a. Issue a cease and desist order to such person, pursuant to Section 22a-7 of the General Statutes, as amended, directing him to halt any and all regulated activities or other violations;

b. Revoke or suspend any permit whose conditions or limitations have been exceeded, or which was secured through deception or through inaccurate information as to either the scope of its activity or its environmental impact;

c. Bring an action pursuant to Section 22a-44 of the General Statutes, as amended; or

d. Bring an action pursuant to Public Act No. 73-665 or any regulations promulgated thereunder.

Sec. 22a-39-9.5. Suspension or revocation of permits

In the event that the Commissioner shall suspend or revoke a permit pursuant to Section 9.4.b above, the applicant shall be notified of the Commissioner's decision by certified mail within five (5) days of the date of the decision and the Commissioner shall cause notice of his order in revocation or suspension of a permit to be published in a newspaper having general circulation in the municipality wherein the wetland or water course lies. Before such suspension or revocation may take effect, the Commissioner shall afford the applicant opportunity to show compliance with all lawful requirements for retention of the permit. However, if the Commissioner finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in his order, he may order summary suspension of a license pending proceedings for revocation or other action.

Sec. 22a-39-9.6. Monies to be maintained in separate account

All monies collected pursuant to this section shall be maintained in a separate account and shall be used by the Commissioner to restore the affected wetlands or water courses to their condition prior to violation, wherever possible.

Sec. 22a-39-9.7. Introduction of evidence

All parties may, subject to the ruling of the Commissioner, request summonses and examinations of witnesses; cross-examine witnesses; introduce records, papers, documents, or other evidence into the record; and submit oral arguments and file briefs for the purpose of showing compliance with requirements for retention of a permit and for the purpose of showing the absence of any violation.

Sec. 22a-39-9.8. Other remedies not excluded

Nothing in these regulations shall be taken as limiting or excluding such other remedies as are available to the Commissioner for the protection of wetlands and water courses.

Sec. 22a-39-10. Appeals

Sec. 22a-39-10. Appeals

Any person aggrieved by any regulation, order, decision or action made by the Commissioner pursuant to these regulations and/or the General Statutes of Connecticut may appeal to the court of common pleas in and for the county where the land affected is located within

fifteen (15) days after publication of such regulation, order, decision, or action. All appeals shall follow the procedure outlined in Section 22a-43 of the General Statutes, as amended.

Sec. 22a-39-11. Conformity of local wetlands agency regulations

Sec. 22a-39-11.1. Submission of local regulations to commissioner

All regulations, including regulated area boundary maps, promulgated or amended by local wetlands agencies, pursuant to the Act, shall be submitted to the Commissioner not later than ten (10) days after their adoption.

Sec. 22a-39-11.2. Conformity of local regulations

The Commissioner shall examine such regulations, including maps and amendments, to determine their conformity with the Act and with these regulations in terms of a) procedural safeguards, b) completeness of wetland and water course coverage, c) adequacy of enforcement machinery and information gathering procedures, and d) substantial adherence to the policies and goals of the Act.

Sec. 22a-39-11.3. Notice of nonconformance

In the event that the Commissioner shall find any part of such local inland wetlands agency regulation not in conformity, the Commissioner shall issue a notice of nonconformance which shall include:

1. the reasons for holding any part to be nonconforming;

2. the section or sections whose operation and effect shall be suspended until they shall be amended and resubmitted;

3. the extent to which the Commissioner shall exercise jurisdiction over the municipal wetlands and water courses, for their protection, in the interval between the issuance of a notice of nonconformance and the resubmission of amended regulations, including boundary maps.

Sec. 22a-39-11.4.a. Amendment of nonconforming regulations

The local wetlands agency shall, pursuant to the provisions for adopting and amending regulations contained in the Act, initiate proceedings to amend such nonconforming regulations within twenty (20) days of the receipt of a notice of nonconformance.

Sec. 22a-39-11.4.b. Jurisdiction where local regulations disapproved

Upon disapproval of any municipal regulations, the Commissioner shall assume jurisdiction over those portions of such municipality's regulations as may be necessary to assure continuity of wetland and water course regulation in such municipality. This jurisdiction shall cease upon approval of the municipality's regulations by the Commissioner.

Sec. 22a-39-11.5.a. Where commissioner does not issue notice

Failure of the Commissioner to issue a notice of nonconformance within sixty (60) days of the receipt of such regulations, maps, or amendments shall be taken as approval of such regulations, except as provided in Section 11.5.b of these regulations.

Sec. 22a-39-11.5.b. Final written approval

If municipal regulations were not submitted to and granted approval by the Commissioner in a preliminary form prior to adoption, they shall not become effective until granted final written approval by the Commissioner.

Sec. 22a-39-11.6. Local regulations approved before effective date of these regulations

All municipal maps and regulations approved by the Commissioner before the effective date of these regulations shall be deemed sufficient to satisfy the requirements of the Act and these regulations. Such regulations shall be deemed fully operative as of their effective date.

Sec. 22a-39-11.7. Jurisdiction of municipality

After July 1, 1974, any municipality which designates a local wetlands agency and adopts regulations shall, upon approval of such regulations by the Commissioner, exercise jurisdiction over regulated activities.

Sec. 22a-39-11.8. Reports to commissioner

All enforcement activities undertaken by a municipality and all appeals involving a municipality which pertain to the wetlands and water courses of the State shall be reported, on a form supplied by the Commissioner, to the Commissioner within fifteen (15) days of the commencement of such action.

Sec. 22a-39-12. Bond and insurance

Sec. 22a-39-12.1. Bond may be required

The applicant, upon approval of the license, and at the discretion of the Commissioner, may be required to file a performance bond or other adequate security in an amount and with sureties and in a form approved by the Commissioner.

Sec. 22a-39-12.2. Condition for bond

The bond and sureties shall be conditioned on substantial compliance with all provisions of these regulations and conditions imposed on license approval.

Sec. 22a-39-12.3. Public insurance

The applicant may be directed to certify that he has public insurance against liability which might result from the proposed operation or use covering any and all damages which might occur within three (3) years of completion of such operations, in an amount to be determined by the Commissioner commensurate with the protected operation.

Sec. 22a-39-13. Conflict and severance

Sec. 22a-39-13.1. Conflict with other regulations

Where there is a conflict between the provisions of these regulations and those of any other regulation administered by the Department, the provisions of the regulation which imposes the most stringent standards for the use of the wetland or water course shall govern.

Sec. 22a-39-13.2. Invalidity of certain parts of regulations

The invalidity of any word, clause, sentence, section, part or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

Be it known that the foregoing rules and regulations are adopted and promulgated by the undersigned pursuant to Public Act No. 155 of the 1972 Public Acts after publication in the Connecticut Law Journal on July 31, 1973, of the notice of the proposal to adopt them, the holding of an advertised public hearing on September 10, 11, 12 and 13, 1973, on the issuance thereof and after consideration of all relevant matter presented, pertaining to Inland Wetlands and Water Courses.

In Witness Whereof, I have hereunto set my hand and seal this 13th day of December, 1973.

DOUGLAS M. COSTLE

Commissioner

Approved: Attorney General, February 11, 1974; Standing Legislative Regulations Review Committee, February 21, 1974. Received and filed: Secretary of the State, February 25, 1974. Effective February 25, 1974.

APPENDIX B

National Flood Insurance Program
Part 60, Subpart A - Requirements for
Flood Plain Management Regulations

Sec.

- 60.7 Revisions of criteria for flood plain management regulations.
60.8 Definitions.

Subpart B—Requirements for State Flood Plain Management Regulations

- 60.11 Purpose of this subpart.
60.12 Flood plain management criteria for State-owned properties in special hazard areas.
60.13 Noncompliance.

Subpart C—Additional Considerations in Managing Flood-Prone, Mudslide (i.e., Mudflow)-Prone, and Flood-Related Erosion-Prone Areas

- 60.21 Purpose of this subpart.
60.22 Planning considerations for flood-prone areas.
60.23 Planning considerations for mudslide (i.e., mudflow)-prone areas.
60.24 Planning considerations for flood-related erosion-prone areas.
60.25 State coordination.
60.26 Local coordination.

Authority: Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); Sec. 1306, 82 Stat. 575; 42 U.S.C. 4013; Sec. 1361, 82 Stat. 587; 42 U.S.C. 4102; Reorganization Plan No. 3 of 1978 (43 FR 41943) and Executive Order 12127, dated March 31, 1979 (44 FR 19367) and delegation of authority to Federal Insurance Administrator (44 FR 20963).

Source: 41 FR 46975, Oct. 26, 1976, unless otherwise noted. Redesignated at 44 FR 31177, May 31, 1979.

Subpart A—Requirements for Flood Plain Management Regulations

§60.1 Purpose of subpart.

(a) The Act provides that flood insurance shall not be sold or renewed under the program within a community, unless the community has adopted adequate flood plain management regulations consistent with Federal criteria. Responsibility for establishing such criteria is delegated to the Administrator.

(b) This subpart sets forth the criteria developed in accordance with the Act by which the Administrator will determine the adequacy of a community's flood plain management regulations. These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone, mudslide (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. Except as otherwise provided in §60.6, the adequacy of such regulations shall be determined on the basis of the standards set forth in §60.3 for flood-prone areas, §60.4 for mudslide areas and §60.5 for flood-related erosion areas.

(c) Nothing in this subpart shall be construed as modifying or replacing the general

requirement that all eligible communities must take into account flood, mudslide (i.e., mudflow) and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use.

(d) The criteria set forth in this subpart are minimum standards for the adoption of flood plain management regulations by flood-prone, mudslide (i.e., mudflow)-prone and flood-related erosion-prone communities. Any community may exceed the minimum criteria under this Part by adopting more comprehensive flood plain management regulations utilizing the standards such as contained in Subpart C of this Part. In some instances, community officials may have access to information or knowledge of conditions that require, particularly for human safety, higher standards than the minimum criteria set forth in Subpart A of this Part. Therefore, any flood plain management regulations adopted by a State or a community which are more restrictive than the criteria set forth in this Part are encouraged and shall take precedence.

§60.2 Minimum compliance with flood plain management criteria.

(a) A flood-prone community applying for flood insurance eligibility shall meet the standards of §60.3(a) in order to become eligible if a FHB has not been issued for the community at the time of application. Thereafter, the community will be given a period of six months from the date the Administrator provides the data set forth in §60.3 (b), (c), (d), or (e) in which to meet the requirements of the applicable paragraph. If a community has received a FHB, but has not yet applied for Program eligibility, the community shall apply for eligibility directly under the standards set forth in §60.3(b). Thereafter, the community will be given a period of six months from the date the Administrator provides the data set forth in §60.3 (c), (d), or (e) in which to meet the requirements of the applicable paragraph.

(b) A mudslide (i.e., mudflow)-prone community applying for flood insurance eligibility shall meet the standards of §60.4(a) to become eligible. Thereafter, the community will be given a period of six months from the date the mudslide (i.e., mudflow) areas having special mudslide hazards are delineated in which to meet the requirements of §60.4(b).

(c) A flood-related erosion-prone community applying for flood insurance eligibility shall meet the standards of §60.5(a) to become eligible. Thereafter, the community will be given a period of six months from the date the flood-related erosion areas having special erosion hazards are delineated in which to meet the requirements of §60.5(b).

(d) Communities identified in Part 65 of this subchapter as containing more than one type of hazard (e.g., any combination of special flood, mudslide (i.e., mudflow), and flood-related erosion hazard areas) shall adopt flood plain management regulations for each type of hazard consistent with the requirements of §§60.3, 60.4 and 60.5.

(e) Local flood plain management regula-

tions may be submitted to the State Coordinating Agency designated pursuant to §60.25 for its advice and concurrence. The submission to the State shall clearly describe proposed enforcement procedures.

(f) The community official responsible for submitting annual reports to the Administrator pursuant to §59.22(b)(2) of this subchapter shall also submit copies of each annual report to any State Coordinating Agency.

(g) A community shall assure that its comprehensive plan is consistent with the flood plain management objectives of this Part.

(h) The community shall adopt and enforce flood plain management regulations based on data provided by the Administrator. Without prior approval of the Administrator, the community shall not adopt and enforce flood plain management regulations based upon modified data reflecting natural or man-made physical changes.

(i) The community, upon its receipt of the data set forth in paragraph (c), (d) or (e) of §60.3 or paragraph (b) of §60.4 or §60.5, shall inform the appropriate State and areawide clearinghouse established in accordance with Part I of OMB Circular No. A-95 (41 FR 2052-2065, January 13, 1976), that the community has a period of six months in which to adopt and submit to the Administrator adequate flood plain management regulations. (The clearinghouses are encouraged to assist the community within the six month period in developing such regulations and in assuring regional coordination.) The community shall submit to the appropriate State and areawide clearinghouse, concurrently with its submission to the Administrator, a copy of all adopted flood plain management regulations intended to comply with paragraphs (c), (d) or (e) of §60.3 or paragraph (b) of §60.4 or §60.5. (Clearinghouse review, for a period not to exceed sixty days from the date a community submits flood plain management regulations to the clearinghouse, shall be provided prior to the Administrator's action on such regulations. Clearinghouse comments, or a statement by the community that no comments or recommendations have been received from the clearinghouse, should be submitted by the community to the Administrator. However, it may be necessary for the clearinghouse to review the community's regulations within a shorter time period in the event of pending action to suspend the community's Program participation, pursuant to §59.24 of this Subchapter, for failure to adopt adequate flood plain management regulations within the required six months. The Administrator, within seven working days of taking a major action on the community's flood plain management submission, shall provide a copy of his/her disposition concerning the submission to each clearinghouse from which a comment was received.)

§60.3 Flood plain management criteria for flood-prone areas.

The Administrator will provide the data upon which flood plain management regulations shall be based. If the Administrator has

not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Administrator. However, when special flood hazard area designations and water surface elevations have been furnished by the Administrator, they shall apply. The symbols defining such special flood hazard designations are set forth in §64.3 of this subchapter. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-prone areas adopted by a particular community depend on the amount of technical data formerly provided to the community by the Administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not defined the special flood hazard areas within a community, has not provided water surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall:

(1) Require permits for all proposed construction or other development in the community, including the placement of mobile homes, so that it may determine whether such construction or other development is proposed within flood-prone areas;

(2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure, (ii) be constructed with materials and utility equipment resistant to flood damage, and (iii) be constructed by methods and practices that minimize flood damage;

(4) Review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize flood damage within the flood-prone area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards;

(5) Require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and

(6) Require within flood-prone areas (i)

new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and (ii) onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(b) When the Administrator has designated areas of special flood hazards (A zones) by the publication of a community's FHBM, but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area, the community shall:

(1) Require permits for all proposed construction and other developments including the placement of mobile homes, within Zone A on the community's FHBM;

(2) Require the application of the standards in paragraphs (a) (2), (3), (4), (5) and (6) of this section to development within Zone A on the community's FHBM;

(3) Require that all subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data;

(4) Obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State, or other source, until such other data has been provided by the Administrator, as criteria for requiring that (i) all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level and (ii) all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or floodproofed to or above the base flood level;

(5) For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on a community's FHBM, (i) obtain the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, (ii) obtain, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed, and (iii) maintain a record of all such information with the official designated by the community under §59.22(a) (9)(iii);

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Administrator;

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

(8) Require that all mobile homes to be placed within Zone A on a community's FHBM shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that (i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii)

frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side; (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and (iv) any additions to the mobile home be similarly anchored;

(9) Require that an evacuation plan indicating alternate vehicular access and escape routes be filed with appropriate Disaster Preparedness Authorities for mobile home parks and mobile home subdivisions located within Zone A on the community's FHBM.

(c) When the Administrator has provided a notice of final base flood elevations within Zones A1-30 on the community's FIRM and, if appropriate, has designated AO zones A99 zones and unnumbered A zones on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area, the community shall:

(1) Require the standards of paragraph (b) of this section within all A1-30 zones unnumbered A zones and AO zones, on the community's FIRM;

(2) Require that all new construction and substantial improvements of residential structures within Zones A1-30 on the community's FIRM have the lowest floor (including basement) elevated to or above the base flood level, unless the community is granted an exception by the Administrator for the allowance of basements and/or storm cellars in accordance with §60.6(b)(3) and (b)(4);

(3) Require that all new construction and substantial improvements of nonresidential structures within Zones A1-30 on the community's firm (i) have the lowest floor (including basement) elevated to or above the base flood level or, (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(4) Provide that where floodproofing is utilized for a particular structure in accordance with paragraphs (c)(3) and (c)(8) of this section or (b)(3) of §60.6 either (i) a registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and a record of such certificates indicating the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the official designated by the community under §59.22(a)(9)(iii); or, (ii) a certified copy of a local regulation containing detailed flood-proofing specifications which satisfy the watertight performance standards of paragraph (c)(3) of this section or (b)(3) of §60.6 shall be submitted to the Administrator for approval;

(5) Require within Zones A1-30 on the community's FIRM for new mobile home parks and mobile home subdivisions, for expansions to existing mobile home parks

and mobile home subdivisions, and for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, that (i) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level, (ii) adequate surface drainage and access for a hauler are provided, and (iii) in the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten feet apart, and reinforcement is provided for pilings more than six feet above the ground level;

(6) Require for all mobile homes to be placed within Zones A1-30 on the community's FIRM, but not into a mobile home park or mobile home subdivision that (i) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level, (ii) adequate surface drainage and access for a hauler are provided, and (iii) in the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than 10 feet apart, and reinforcement is provided for piers more than six feet above ground level;

(7) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the community's FIRM;

(8) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of non-residential structures (i) have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the FIRM, or (ii) together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(9) Require within any A99 zones on a community's FIRM the standards of paragraphs (a)(1) thru (a)(4)(i) and (b)(5) thru (b)(9) of this section;

(10) Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(d) When the Administrator has provided

a notice of final base flood elevations within Zones A1-30 on the community's FIRM and, if appropriate, has designated AO zones A99 zones and unnumbered A zones on the community's FIRM, and has provided data from which the community shall designate its regulatory floodway, the community shall:

(1) Meet the requirements of paragraphs (c)(1) through (c)(9) of this section;

(2) Select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;

(3) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway that would result in any increase in flood levels within the community during the occurrence of the base flood discharge;

(4) Prohibit the placement of any mobile homes, except in an existing mobile home park or mobile home subdivision, within the adopted regulatory floodway.

(e) When the Administrator has provided a notice of final base flood elevations within Zones A1-30 on the community's FIRM and, if appropriate, has designated AO zones, A99 zones and unnumbered A zones on the community's FIRM, and has identified on the community's FIRM Zone V1-30 (coastal high hazard area), the community shall:

(1) Meet the requirements of paragraphs (c)(1) through (c)(10) of this section;

(2) For the purpose of the determination of applicable flood insurance risk premium rates within Zone V1-30 on a community's FIRM, (i) obtain the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, (ii) obtain, if the structure has been flood-proofed, the elevation (in relation to mean sea level) to which the structure was flood-proofed, and (iii) maintain a record of all such information with the official designated by the community under § 59.22(a)(9)(iii);

(3) Provide that all new construction within Zones V1-30 on the community's FIRM is located landward of the reach of mean high tide;

(4) Provide (i) that all new construction and substantial improvements within Zones V1-30 on the community's FIRM are elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level and (ii) that a registered professional engineer or architect certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash;

(5) Provide that all new construction and substantial improvements within Zones V1-30 on the community's FIRM have the space below the lowest floor free of obstruc-

tions or be constructed with "breakaway walls" intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized. Such temporarily enclosed space shall not be used for human habitation;

(6) Prohibit the use of fill for structural support of buildings within Zones V1-30 on the community's FIRM;

(7) Prohibit the placement of mobile homes, except in existing mobile home parks and mobile home subdivisions, within Zones V1-30 on the community's FIRM;

(8) Prohibit man-made alteration of sand dunes and mangrove stands within Zones V1-30 on the community's FIRM which would increase potential flood damage.

§60.4 Flood plain management criteria for mudslide (i.e., mudflow)-prone areas.

The Administrator will provide the data upon which flood plain management regulations shall be based. If the Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Administrator. However, when special mudslide (i.e., mudflow) hazard area designations have been furnished by the Administrator, they shall apply. The symbols defining such special mudslide (i.e., mudflow) hazard designations are set forth in § 64.3 of this subchapter. In all cases, the minimum requirements for mudslide (i.e., mudflow)-prone areas adopted by a particular community depend on the amount of technical data provided to the community by the Administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not yet identified any area within the community as an area having special mudslide (i.e., mudflow) hazards, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall:

(1) Require permits for all proposed construction or other development in the community so that it may determine whether development is proposed within mudslide (i.e., mudflow)-prone areas;

(2) Require review of each permit application to determine whether the proposed site and improvements will be reasonable safe from mudslides (i.e., mudflows). Factors to be considered in making such a determination should include but not be limited to (i) the type and quality of soils, (ii) any evidence of ground water or surface water problems, (iii) the depth and quality of any fill, (iv) the overall slope of the site, and (v) the weight that any proposed structure will impose on the slope;

(3) Require, if a proposed site and improvements are in a location that may have mudslide (i.e., mudflow) hazards, that (i) a site investigation and further review be made by persons qualified in geology and soils engineering, (ii) the proposed grading, excavations, new construction, and substantial

improvements are adequately designed and protected against mudslide (i.e., mudflow) damages, (iii) the proposed grading, excavations, new construction and substantial improvements do not aggravate the existing hazard by creating either on-site or off-site disturbances, and (iv) drainage, planting, watering, and maintenance be such as not to endanger slope stability.

(b) When Administrator has delineated Zone M on the community's FIRM, the community shall:

(1) Meet the requirements of paragraph (a) of this section; and

(2) Adopt and enforce a grading ordinance or regulation in accordance with data supplied by the Administrator which (i) regulates the location of foundation systems and utility systems of new construction and substantial improvements, (ii) regulates the location, drainage and maintenance of all excavations, cuts and fills and planted slopes, (iii) provides special requirements for protective measures including but not necessarily limited to retaining walls, buttress fills, subdrains, diverter terraces, benchings, etc., and (iv) requires engineering drawings and specifications to be submitted for all corrective measures, accompanied by supporting soils engineering and geology reports. Guidance may be obtained from the provisions of the 1973 edition of the Uniform Building Code, sections 7001 through 7006, and 7008 through 7015. The Uniform Building Code is published by the International Conference of Building Officials, 50 South Los Robles, Pasadena, California 91101.

§60.5 Flood plain management criteria for flood-related erosion-prone areas.

The Administrator will provide the data upon which flood plain management regulations for flood-related erosion-prone areas shall be based. If the Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources, pending receipt of data from the Administrator. However, when special flood-related erosion hazard area designations have been furnished by the Administrator they shall apply. The symbols defining such special flood-related erosion hazard designations are set forth in §64.3 of this subchapter. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-related erosion-prone areas adopted by a particular community depend on the amount of technical data provided to the community by the Administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not yet identified any area within the community as having special flood-related erosion hazards, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall:

(1) Require the issuance of a permit for all proposed construction, or other development in the area of flood-related erosion

hazard, as it is known to the community;

(2) Require review of each permit application to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing flood-related erosion hazard; and

(3) If a proposed improvement is found to be in the path of flood-related erosion or to increase the erosion hazard, require the improvement to be relocated or adequate protective measures to be taken which will not aggravate the existing erosion hazard.

(b) When the Administrator has delineated Zone E on the community's FIRM, the community shall:

(1) Meet the requirements of paragraph (a) of this section; and

(2) Require a setback for all new development from the ocean, lake, bay, riverfront or other body of water, to create a safety buffer consisting of a natural vegetative or contour strip. This buffer will be designated by the Administrator according to the flood-related erosion hazard and erosion rate, in conjunction with the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the community's land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

§60.6 Variances and exceptions.

(a) The Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§60.3, 60.4, and 60.5. The issuance of a variance is for flood plain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The community, after examining the applicant's hardships, shall approve or disapprove a request. While the granting of variances generally is limited to a lot size less than one-half acre (as set forth in paragraph (a)(2) of this section), deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. The Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Administrator may take appropriate action under §59.24(b) of this subchapter. Variances may be issued by a community for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in this section. Procedures for the granting of variances by a community are as follows:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(2) Variances may be issued by a community for new construction and substantial

improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs (a) (3), (4), (5) and (6) of this section;

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section; and

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual report submitted to the Administrator.

(b)(1) The requirement that each flood-prone, mudslide (i.e., mudflow)-prone, and flood-related erosion prone community must adopt and submit adequate flood plain management regulations as a condition of initial and continued flood insurance eligibility is statutory and cannot be waived, and such regulations shall be adopted by a community within the time periods specified in §§60.3, 60.4 or §60.5. However, certain exceptions from the standards contained in this subpart may be permitted where the Administrator recognizes that, because of extraordinary circumstances, local conditions may render the application of certain standards the cause for severe hardship and gross inequity for a particular community. Consequently, a community proposing the adoption of flood plain management regulations which vary from the standards set forth in §§60.3, 60.4, or §60.5, shall explain in writing to the Administrator the nature and extent of and the reasons for the exception request and shall include sufficient supporting economic, environmental, topographic, hydrologic, and other scientific and technical data, and data with respect to the impact on public safety and the environment.

(2) The Administrator shall prepare a Special Environmental Clearance to determine whether the proposal for an exception under paragraph (b)(1) of this section will have significant impact on the human environment. The decision whether an (i)

Environmental Impact Statement (EIS) or (ii) a Finding of Inapplicability is required must be made by the Environmental Clearance Officer of the initiating office with the approval of the Assistant Secretary for Community Planning and Development based on review by the Director, Office of Environmental Quality and the General Counsel (Assistant General Counsel for Finance and Administrative Law) in accord with HUD Handbook 1390.1 (38 FR 19182, 19186), "Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality" which implements the National Environmental Policy Act of 1969 (Pub. L. 91-190) for FEMA programs, and guidelines of the Council on Environmental Quality (40 CFR Part 1500). Ninety or more days may be required for an environmental quality clearance if the proposed exception will have significant impact on the human environment thereby requiring an EIS.

(3) In accordance with paragraph (b)(1) of this section, a community may propose flood plain management regulations which adopt standards for basements below the base flood level. The Administrator may approve the proposal when the basements are to be designed so that below the base flood level the structure is watertight (i.e., completely dry without human intervention during flooding) with walls impermeable to the passage of water and structural components with the capability to resist hydrostatic and hydrodynamic loads and effects of buoyancy.

(4) In accordance with paragraph (b)(1) of this section, a community may propose flood plain management regulations to permit storm cellars below the base flood level. The Administrator may approve the proposal for storm cellars (as defined in §59.1 of this subchapter) after the community has demonstrated an historical need for storm cellars as a means of shelter against recorded occurrences of severe tornado or similar wind storm activities in the area and based upon a community's acknowledgement that (i) all new storm cellars shall be limited to nonhabitable uses, (ii) all electrical, heating and other mechanical equipment shall be above the base flood level for all new storm cellars; and (iii) the design of storm cellars shall assure that the integrity of the main structure during time of flooding is maintained.

§60.7 Revisions of criteria for flood plain management regulations.

From time to time Part 60 may be revised as experience is acquired under the Program and new information becomes available. Communities will be given six months from the effective date of any new regulation to revise their flood plain management regulations to comply with any such changes.

§60.8 Definitions.

The definitions set forth in Part 59 of this subchapter are applicable to this Part.

Subpart B—Requirements for State Flood Plain Management Regulations

§60.11 Purpose of this subpart.

(a) A State is considered a "community" pursuant to §59.1 of this Subchapter; and, accordingly, the Act provides that flood insurance shall not be sold or renewed under the Program unless a community has adopted adequate flood plain management regulations consistent with criteria established by the Administrator.

(b) This subpart sets forth the flood plain management criteria required for State-owned properties located within special hazard areas identified by the Administrator. A State shall satisfy such criteria as a condition to the purchase of a Standard Flood Insurance Policy for a State-owned structure or its contents, or as a condition to the approval by the Administrator, pursuant to Part 75 of this subchapter, of its plan of self-insurance.

§60.12 Flood plain management criteria for State-owned properties in special hazard areas.

(a) The State shall comply with the minimum flood plain management criteria set forth in §§60.3, 60.4, and 60.5. A State either shall:

(1) Comply with the flood plain management requirements of all local communities participating in the program in which State-owned properties are located; or

(2) Establish and enforce flood plain management regulations which, at a minimum, satisfy the criteria set forth in §§60.3, 60.4, and 60.5.

(b) The procedures by which a state government adopts and administers flood plain management regulations satisfying the criteria set forth in §§60.3, 60.4 and 60.5 may vary from the procedures by which local governments satisfy the criteria.

(c) If any State-owned property is located in a non-participating local community, then the State shall comply with the requirements of paragraph (a)(2) of this section for the property.

§60.13 Noncompliance.

If a State fails to submit adequate flood plain management regulations applicable to State-owned properties pursuant to §60.12 within six months of the effective date of this regulation, or fails to adequately enforce such regulations, the State shall be subject to suspensive action pursuant to §59.24. Where the State fails to adequately enforce its flood plain management regulations, the Administrator shall conduct a hearing before initiating such suspensive action.

Subpart C—Additional Considerations in Managing Flood-Prone, Mudslide (i.e., Mudflow)-Prone, and Flood-Related Erosion-Prone Areas

§60.21 Purpose of this subpart.

The purpose of this subpart is to encourage the formation and adoption of

overall comprehensive management plans for flood-prone, mudslide (i.e., mudflow)-prone and flood-related erosion-prone areas. While adoption by a community of the standards in this subpart is not mandatory, the community shall completely evaluate these standards.

§60.22 Planning considerations for flood-prone areas.

(a) The flood plain management regulations adopted by a community for flood-prone areas should:

(1) Permit only that development of flood-prone areas which (i) is appropriate in light of the probability of flood damage and the need to reduce flood losses, (ii) is an acceptable social and economic use of the land in relation to the hazards involved, and (iii) does not increase the danger to human life;

(2) Prohibit nonessential or improper installation of public utilities and public facilities in flood-prone areas.

(b) Informulating community development goals after the occurrence of a flood disaster, each community shall consider—

(1) Preservation of the flood-prone areas for open space purposes;

(2) Relocation of occupants away from flood-prone areas;

(3) Acquisition of land or land development rights for public purposes consistent with a policy of minimization of future property losses;

(4) Acquisition of frequently flood-damaged structures;

(c) Informulating community development goals and in adopting flood plain management regulations, each community shall consider at least the following factors—

(1) Human safety;

(2) Diversion of development to areas safe from flooding in light of the need to reduce flood damages and in light of the need to prevent environmentally incompatible flood plain use;

(3) Full disclosure to all prospective and interested parties (including but not limited to purchasers and renters) that (i) certain structures are located within flood-prone areas, (ii) variances have been granted for certain structures located within flood-prone areas, and (iii) premium rates applied to new structures built at elevations below the base flood substantially increase as the elevation decreases;

(4) Adverse effects of flood plain development on existing development;

(5) Encouragement of floodproofing to reduce flood damage;

(6) Flood warning and emergency preparedness plans;

(7) Provision for alternative vehicular access and escape routes when normal routes are blocked or destroyed by flooding;

(8) Establishment of minimum floodproofing and access requirements for schools, hospitals, nursing homes, orphanages, penal institutions, fire stations, police stations, communications centers, water and sewage pumping stations, and other public or quasi-public facilities already located in the flood-prone area, to enable them to

APPENDIX C

Town of Coventry, River Aquifer
Zone Regulations

3.5 River/Aquifer Zones

3.5.1 Intent

This regulation has been established to promote the health, welfare and safety of the Town by preserving and protecting identified aquifers and areas adjacent to rivers. It is designed to ensure an adequate supply of potable water, to provide a buffer area to protect rivers and aquifers from siltation and other forms of contamination and to protect surrounding properties from flooding and development concentrations in environmentally sensitive areas.

3.5.2 Permitted Uses

The following uses are allowed in the River/Aquifer Zone subject to special permit approval as per Section 3.7 and compliance with the provisions of Section 3.5.3:

Farming; recreation (profit and non-profit); nature study areas; removal of top soil, sand, gravel or stone; public utilities and residences.

Accessory buildings not exceeding 500 square feet shall be allowed without special permit approval provided all applicable provisions of the Zoning Regulations are met and a zoning permit is obtained.

In addition, septage waste disposal systems may be permitted as per the special permit provisions of Section 6.20.

3.5.3 River Aquifer Standards

- a. No development proposal shall be approved which is inconsistent with the intent set forth in Section 3.5.1.
- b. All buildings or structures shall be erected at an elevation and location which will keep it as well as its access from a public highway free from flooding.
- c. All sanitary disposal facilities and water supply systems shall have been approved in writing by the Town Board of Health or its designated agent.
- d. All residences permitted shall comply with the following schedule of area, yards, height and floor area requirements:

Min. Area of Lot in Square Feet	80,000
Min. Frontage in feet	200
Min. Depth in feet	300
Maximum No. of Stories	2½
Maximum Height in feet	35
Maximum Percentage of Lot Coverage	10
Min. Front Yard in feet	75
Min. Side Yard in feet	30
Min. Rear Yard in Feet	100
Min. Living Floor Area for a residence in sq. ft.	1,000

- e. All non-residential uses permitted in a River Zone District shall comply with standards specified for a C-2 District in Section 10.3 of these regulations.